HON'BLE THE ACTING CHIEF JUSTICE MR.BILAL NAZKI

AND

HON'BLE SRI JUSTICE R. SUBHASH REDDY

Writ Petition No.11678 of 2005

Dated: 14th November 2005

Between:

Smt.Vandara Hemalatha … Petitioner

And

The Hon'ble District Judge,

Vizianagaram District Court and two others.

… Respondents.

Oral Order: (per the Hon'ble the Acting Chief Justice)

…

1. Heard learned counsel for the parties.

2. It appears that the respondents approached in terms of Section 11 of the Arbitration & Conciliation Act, 1996 (for short 'the Act') read with Rule 8 of the A.P. Arbitration Rules, 2000 the first respondent—District Judge, who found that there was a dispute between the parties and there was an arbitration agreement in writing, and appointed an arbitrator. Now, this order has been challenged mainly on two grounds: 1) as the value of the subject matter of the dispute is more than Rs.5,00,000/-, in view of the scheme framed by the Hon'ble Chief Justice, the learned District Judge

had no jurisdiction over the matter to pass an order for appointment of arbitrator, 2) that in terms of Section 5, a clear 30 days notice has to be given before an application for appointment of arbitrator could be moved and this was not done. In our view, these are the matters, which cannot be gone into by this Court in these writ proceedings in view of the judgment of the Supreme Court in **M/s. S.B.P. & Co. v. M/s. Patel Engineering Ltd., & anr.**. While summing up the conclusions, the Supreme Court at Paragraph No.46 of the above judgment made the following conclusions at Conclusion Nos.5, 6 and 9:

> **46)** …
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> …
>
> 5) Designation of a District Judge as the authority under Section 11 (6) of the Act by the Chief Justice of the High Court is not warranted on the scheme of the Act.
>
> 6) Once the matter reaches the arbitral tribunal or the sole arbitrator, the High Court would not interfere with orders passed by the arbitrator or the arbitral tribunal during the course of the arbitration proceedings and the parties could approach the court only in terms of Section 37 of the Act or in terms of Section 34 of the Act.
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> …
>
> 9) In a case where an arbitral tribunal has been constituted by the parties without having recourse to Section 11 (6) of the Act, the arbitral tribunal will have the jurisdiction to decide all matters as contemplated by Section 16 of the Act.
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> …

3. In view of the above findings of the Supreme Court, the course open for the petitioner is to get his grievance redressed before the arbitrator himself in terms of Section 16 or wait for the Award and

challenge the same in terms of Section 34 of the Act. Writ petition dismissed.

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(Bilal Nazki, ACJ)

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(R. Subhash Reddy, J)

14th November 2005

svs